IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1447 OF 2007

Mr.Kishorechandra Bhatt. ...Applicant.

Versus

The State of Maharashtra ...Respondent.

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Mr.A.M.Saraogi, Adv. for the Applicant.
Mr.Rajesh More, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 27th April, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned APP for the State. I have also interviewed the prosecutrix Sita Banpatel.

2. The applicant is seeking bail in C.R.No.390 of 2006 of Powai Police Station. The said case is mainly under Sections 363, 376 of IPC.

3. It is the prosecution case that the applicant has committed rape on the prosecutrix and at the time of the incident the prosecutrix was about 14 years old. No doubt, a case of

statutory rape has been made out by the prosecution. However, I have interviewed the prosecutrix and she states that she knows the applicant and love affair is going on between the prosecutrix and the present applicant since a long time. She has stated that on account of the said love affair, she had sexual intercourse with the applicant. The prosecutrix has further stated that there was no use of force, fraud or cheating involved when she had sexual relations with the applicant. She has prayed that the applicant may be released on bail. After interviewing her, I find that all these statements have been made voluntarily by her.

4. Besides this, when the prosecutrix was medically examined, she has stated to the Doctor that she has willingly with her consent indulged in sexual intercourse with the applicant. No doubt the prosecutrix is below 16 years. The prosecutrix is a city girl. She has been born and brought up in Mumbai. After interviewing her, I am of the opinion that she seems well aware of the nature and implications of her act.

5. In this view of the matter, I am inclined to grant bail to the applicant.

6. The applicant - Kishorechandra Bhatt to be released on bail in the sum of Rs.10,000/- with one or two sureties to make up the said amount. The sureties shall be local sureties. The applicant shall report to concerned Police Station once in a fortnight, till conclusion of the trial.

7. The applicant is permitted to be released on cash bail of Rs.10,000/- for a period of 15 days from today. During that time, the applicant shall furnish the said local sureties.

8. Application is disposed of accordingly.

(SMT.V.K.TAHILRAMANI,J.)